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Annette Rid and Nikola Biller-Andorno

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# Justice in action? Introduction to the minisymposium on Norman Daniels' *Just health: meeting health needs fairly*

Annette Rid,<sup>1</sup> Nikola Biller-Andorno<sup>2</sup>

As a matter of justice, what do we owe each other to promote and protect health in a population and to assist people when they are ill and disabled? This is the fundamental question of Norman Daniels' new book on justice and health.<sup>1</sup> *Just health* is in many ways a successor to Daniels' seminal classic *Just health care*.<sup>2</sup> As foreshadowed by a 2001 target article in the *American Journal of Bioethics*,<sup>3</sup> *Just health* integrates Daniels' account of the special moral importance of health and healthcare<sup>2</sup> with his interim work on the social determinants of health<sup>4</sup> and the fairness of health sector reform and limit-setting in healthcare.<sup>5–6</sup> The change of title already indicates that *Just health* no longer focuses solely on the provision of healthcare, but spans all socially controllable factors of health. The book's ambitious aim is to provide an integrated theory of justice and health.

In order to understand what justice requires with regard to health, Daniels argues, we must address three focal questions. First, is health of special moral importance? Second, when are health inequalities unjust? And third, how can we meet health needs fairly under resource limits? Daniels' answers to all three questions are based on John Rawls' theory of justice as fairness,<sup>7</sup> which famously argues that a social contract among free and equal members of a society would include three general principles of justice: a principle protecting equal basic liberties; a principle guaranteeing fair equality of opportunity; and a principle limiting inequalities to those that benefit the least advantaged. Health and healthcare were no topics for Rawls,

as he assumed all members of society to be healthy.

Daniels extends Rawls to address issues of health and healthcare in response to the three focal questions about justice and health. He argues, first, that health is of special moral importance because it contributes to the range of opportunities open to us. If, as a matter of justice, we have social obligations to protect individual opportunity, promoting and restoring health is one component of fulfilling these obligations. Second, health inequalities are unjust when access to healthcare is inequitable or when the social determinants of health—such as education and income—are not distributed fairly (that is, according to Rawls' general principles of justice). Third, although Rawls' principles can guide our general thinking about justice and health, they are too indeterminate to solve limit-setting problems when resources for health-related interventions are especially scarce. Reasonable people therefore disagree about how to set limits fairly. A fair deliberative process must ensure the legitimacy and fairness of limit-setting decisions for lack of a substantive way to resolve reasonable disagreement.

Daniels makes three major claims about his theory of justice for health. First, he claims that his theory is *integrated*, or comprehensive, because it spans all socially controllable factors for health, including medical care, broader forms of healthcare, public health measures and the distribution of non-health-sector goods. This invalidates a common objection to Daniels' earlier work,<sup>2</sup> namely, that equitable access to medical care and public health interventions is insufficient to achieve justice for health. Second, Daniels asserts that his theory is *practical*, because the substantive account of justice for health is supplemented with a fair process for setting limits (and, we would add, because Daniels is strongly committed to scrutinising his arguments in light of vast amounts of empirical evidence from medicine, epidemiology

and health economics). Third, Daniels claims that his theory is *global* in scope, because it can be applied in, or adapted to, societies of all levels of development—from affluent industrialised to resource-poor developing nations.

All three claims underscore the impressive scope of *Just health*. However, they also invite questioning. Is Daniels' familiar extension of Rawls, assigning special moral importance to health because of its impact on opportunity, still convincing when empirical evidence shows that health is more deeply intertwined with social justice than originally assumed? Would it not be more compelling to argue directly for health, or its social basis, as an object of justice? And do the empirical data about social determinants of health, suggesting a negative impact of *relative* inequality on health (no matter the absolute baseline), not call for action that would be inconsistent with Rawls' difference principle? How much support will liberal principles of justice have around the globe?

Daniels' claim about the practical relevance of his theory, however, might interest bioethicists most, given their frequent commitment to see theoretical ideas translated into practice. Reliance on a fair process, as specified in the accountability-for-reasonableness framework, is Daniels' primary means to making his theory practically relevant. But unfortunately, the relation between his substantive, opportunity-based account of justice for health and his procedural account of accountability for reasonableness remains largely unclear. Accountability for reasonableness is not clearly anchored in Rawls' principles of justice that Daniels' theory is otherwise based on. Moreover, despite Daniels' best efforts to elucidate them, the substantive constraints of accountability for reasonableness are only vaguely defined. This makes it difficult to determine precisely how procedural justice is intended to operate—and a real-world concern is that substantive requirements, if underelaborated, get lost in practice. Granting Rawls' principles of justice and their indeterminacy, it would be helpful to see more clearly how they carry over to a fair process, and which options they clearly exclude.

When addressing issues of justice, bioethics can rely on substantive approaches or emphasise procedural solutions. The seemingly never-ending struggle between competing substantive accounts of justice, and the consequent inability to determine what is just, can cause frustration and impatience—particularly since real-world decisions will, and

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## Norman Daniels symposium

must, be made. But reliance on procedural approaches to make decisions, although more practicable, also generates uneasiness about the foreseeable discrepancy between ideal deliberative processes and real-world deliberations, and the ensuing risk of achieving little more than political negotiation. Norman Daniels' effort to supplement his substantive theory of justice for health with a procedural component is an important step towards tying theory to practice. To see justice in

action, however, we believe the link between substance and procedure must be further elaborated.

**Competing interests:** None declared.

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